

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

CHRISTOPHER GRISHAM, JAMES EVERARD,	§ § §	
<i>Plaintiffs</i>		§ § §
vs.	§	Case No.: SA-20-CV-00387-OLG
		§ § § § § §
RENE VALENCIANO, J. LOPEZ, HECTOR RUIZ, A. VERA, CITY OF OLMOS PARK	§ § § § § §	
<i>Defendants.</i>		§ §

JOINT ADVISORY REGARDING DISCOVERY DISPUTES OF THE PARTIES

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to the August 20, 2021, Magistrate's Order [Dkt. 37], the Court required the parties to confer and submit this joint advisory to the Court concerning the following motions:

1. *Plaintiffs' Opposed Motion to Extend Scheduling Order Deadlines and Memorandum of Law in Support* [Dkt. 32]¹
2. *Defendants' Motion to Compel Plaintiff Grisham's Deposition, Production of Documents, Request for Sanctions and Request for Expedited Hearing* [Dkt. 33]²
3. *Plaintiffs' Opposed Motion for Leave, Motion to Compel Depositions, Motion to Show Cause, and Request for Sanctions* [Dkt. 35]³

¹ Defendants' Response is filed at Dkt. 38. Plaintiffs did not file a reply.

² Plaintiffs' Response is filed at Dkt. 36. Defendants' Reply is filed at Dkt. 45.

³ Defendants' Response is filed at Dkt. 42. Plaintiffs' Amended Reply is filed at Dkt. 44.

4. *Plaintiffs' Motion for a Protective Order (Filed in conjunction with Plaintiffs' Response to Defendants' Motion to Compel, Production of Documents and Request for Sanctions) [ECF 36].*⁴

CONFERENCE OF THE PARTIES

On August 25, 2021, the parties conferred by telephonic conference. The parties created a list of items to discuss and upon consideration of the items, the parties were able to agree to some of the items but remain opposed to others. The parties good faith conferral is summarized below:

1. *Plaintiffs' Opposed Motion to Extend Scheduling Order Deadlines and Memorandum of Law in Support [Dkt 32].*

RELIEF REQUESTED: Plaintiffs are requesting the Court reopen expert and discovery deadlines.

STATUS OF CONFERRAL: The parties were not able to reach a resolution on this motion. The parties generally reached an agreement on the deposition of a City representative and Defendant's expert, but no agreement was reached on the reopening of expert and discovery deadlines.

SUMMARY OF CONFERRAL:

- a. Plaintiffs and Defendants agreed to conduct the deposition of Defendant City's representative, despite the expiration of the discovery period, at Plaintiffs' cost on a date to be mutually agreed upon by the parties
- b. Plaintiffs and Defendants agreed to conduct the deposition of Defendants' testifying expert, despite the expiration of the discovery period, at Plaintiffs' cost on a date to be mutually agreed upon by the parties.

⁴ Defendants' Response is forthcoming. Plaintiffs do not intend to file a Reply.

- c. Despite their good faith conferral, the parties could not come to an agreement regarding Plaintiffs' motion to extend the remaining scheduling order deadlines. The parties believe their briefing on these issues adequately supports their relative positions and will be prepared for argument at the currently set hearing.

2. *Defendants' Motion to Compel Plaintiff Grisham's Deposition, Production of Documents, Request for Sanctions and Expedited Hearing* [Dkt 33].

RELIEF REQUESTED: Defendants are requesting to re-depose Plaintiff Grisham to answer questions Plaintiffs' counsel objected to and instructed Grisham not to answer and to recover costs and attorneys' fees.

STATUS OF CONFERRAL: The parties resolved issues concerning Defendants' Motion to Compel the Production of Documents. The parties were not able to reach an agreement on Defendants' Motion to Compel Plaintiff Grisham's Deposition.

SUMMARY OF CONFERRAL:

- a. Plaintiffs and Defendants agree that Plaintiff Grisham's responses to Defendants Second Request for Production, as amended, are sufficient. Plaintiffs agreed to allow Defendants to serve Plaintiff Grisham one interrogatory, despite the expiration of the discovery period, in the same form as Defendants Second Request for Production request number 4.
- b. Despite their good faith conferral, the parties could not come to an agreement regarding Defendants' motion to re-depose Plaintiff Grisham. The parties believe their briefing on these issues adequately supports their relative positions and will be prepared for argument at the currently set hearing.

3. *Plaintiff's Opposed Motion for Leave, Motion to Compel Depositions, Motion to Show Cause, and Request for Sanctions* [Dkt 35].

RELIEF REQUESTED:

- a. Plaintiffs are requesting to depose Chief Valenciano, and any other fact witness as it pertains to Defendants' PowerPoint previously filed under seal [Dkt 39].
- b. Plaintiffs are requesting that Defendants show cause to identify the legal basis for collecting sensitive data on Plaintiffs' counsel and family members.

STATUS OF CONFERRAL: The parties were not able to reach a resolution on this motion.

SUMMARY OF CONFERRAL:

- a. Despite their good faith conferral, the parties could not come to an agreement regarding Plaintiffs' Motion to compel the re-deposition of Defendant Valenciano. During the conference, Plaintiff made a subsequent proposal to share in the cost of the deposition(s) in addition to limiting the deposition(s) to two hours with the focus on the PowerPoint. Defendants refused. The parties believe their briefing on these issues adequately supports their relative positions and will be prepared for argument at the currently set hearing.
- b. Despite their good faith conferral, the parties could not come to an agreement regarding Plaintiffs' Motion to Show Cause. The parties believe their briefing on these issues adequately supports their relative positions and will be prepared for argument at the currently set hearing.

4. *Plaintiffs' Motion for a Protective Order. (Filed in conjunction with Plaintiffs' Response to Defendants' Motion to Compel, Production of Documents and Request for Sanctions)* [Dkt 36].

RELIEF REQUESTED: This motion is related to Defendants' Motion to Compel Grisham's deposition [Dkt 33]. Plaintiffs are requesting the Court grant a protective order to prevent Plaintiff Grisham from having to respond to specific lines of questioning.

STATUS OF CONFERRAL: The parties were not able to reach a resolution on this motion.

SUMMARY OF CONFERRAL: Despite their good faith conferral, the parties could not come to an agreement regarding Plaintiffs' Motion for a protective order related to Plaintiff's deposition. The parties believe their briefing on these issues adequately supports their relative positions and will be prepared for argument at the currently set hearing.

CONCLUSION

In summation, despite of the above-referenced agreements between the parties, the parties were unable to come to a resolution regarding several issues.

Respectfully submitted,

GRABLE GRIMSHAW MORA PLLC

1603 Babcock Road, Suite 280
San Antonio, Texas 78229
Telephone: (210) 963-5297
Facsimile: (210) 641-3332
brandon@ggm.law
austin@ggm.law

By: /s/Brandon J. Grable
BRANDON J. GRABLE
Texas State Bar No. 24086983
AUSTIN M. REYNA
Texas State Bar No. 24118645
COUNSEL FOR PLAINTIFFS

DENTON NAVARRO ROCHA BERNAL & ZECH

A Professional Corporation
2517 North Main Avenue
San Antonio, Texas 78212
Telephone: (210) 227-3243
Facsimile: (210) 225-4481
pbernal@rampagelaw.com

aruiz@rampagelaw.com

By: /s/Adolfo Ruiz (signed with permission)
PATRICK C. BERNAL
State Bar No. 02208750
ADOLFO RUIZ
State Bar No. 17385600
COUNSEL FOR DEFENDANTS